12/23/2009

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Control #: [SBSE-20-1209-058]
Affected IRM: 20.2.9.2(1) & (5)
Expiration Date: 12/23/2010

MEMORANDUM FOR: All Employees

FROM: Alain Dubois /s/ Alain Dubois
                 Director, Exam Policy

SUBJECT: Interim Guidance for Determining the Overpayment Interest Period

The purpose of this memorandum is to communicate an update to IRM 20.2.9.2(1) and (5), *Determining the Overpayment Interest Period*. The impacted IRM sections will be updated to reflect these corrections within one year from the date of issuance of this memo.

Purpose:
1. To clarify the interest "start dates" that must be taken into account for purposes of computing overpayment interest on a carryback allowance.
2. To remind personnel when computing overpayment interest on a carryback allowance, to consider the Return Processible Date (RPD) or Correspondence Received Date (CRD) as possible interest "start dates" for the computation of overpayment interest on carryback claims and applications.

Background/Source(s) of Authority:
The law provides specific rules for how interest is to be computed on an overpayment that arises from the carryback of a net operating loss. IRC section 6611(f)(4)(B)(i)(I) provides, that for purposes of IRC section 6611(e), the overpayment attributable to the carryback of a net operating loss is treated as an overpayment for the loss year. IRC section 6611(f)(4)(b)(i)(II) provides that IRC section 6611(e) is applied with respect to that overpayment by treating the return for the loss year as not filed before a claim for such overpayment is filed.

The carryback application or claim processible date is to be considered when determining whether the resulting refund has been issued within the 45-day period. It is not considered when determining when overpayment interest starts.

IRC 6611(h) provides that for purposes of IRC 6611(e), a return shall not be treated as filed until it is filed in processible form.

Procedural Change:
IRM 20.2.9.2 (1) - Removed the fourth bullet "the application or claim processible date".
IRM 20.2.9.2 (5) – Added the following "Reminder" after the If/Then Table:

REMINDER: A Return Processible Date (RPD) is used to revise the date in which an original tax return is considered to be in a processible form. This date is also known as the Correspondence Received Date (CRD). Therefore, for purposes of determining the processible date of a loss year return, the RPD and CRD must be considered as possible interest start dates for the computation of overpayment interest on carryback claims and applications.

Effect on Other Documents: This guidance will be incorporated into IRM 20.2.9, *Interest on Carryback of Net Operating Loss,* and IRM 21.5.9, *Carrybacks,* by a date not to exceed one year from the date of this memo.

Effective Date: The above guidance is effective immediately.

Contact: Mary L. Jephson, Servicewide Interest Analyst

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